

FIVE FEDERAL LAWS AND THE NATIONAL COMPACT

Fostering Connections to Success and Increasing Adoptions Act

The Fostering Connections to Success and Increasing Adoptions Act of 2008 was signed by President Bush on October 7, 2008. Pub.L. 110-351, 122 Stat. 3949, (Oct. 7, 2008). This legislation makes significant changes and improvements in the child welfare system. While the Fostering Connections Act does not include specific requirements for courts, effective judicial oversight of the agency requirements under the Act can help to improve permanency and child well-being outcomes.

The key provisions include:

Connecting and supporting relative caregivers

- The legislation reauthorizes and updates the adoption incentives program. Federal dollars can be used to subsidize guardianship payment for relatives such as grandparents and other adult family members.
- All known relatives must be given notice within 30 days of the child's removal so that they have a greater opportunity to provide support and placement.
- The Department of Health and Human Services is allowed to provide grants for Kinship Navigator Programs, intensive family-finding efforts that use technology to find biological family members, family group decision-making meetings, and residential treatment programs that allow parents and children to reside together while receiving intensive services.
- States may now waive non-safety related licensing requirements for relatives on a case-by-case basis.
- When a child is placed in a permanent placement with a relative who is receiving relative caregiver funds, the case plan must include certain statements:
 - Explanation why return home and adoption are not appropriate.
 - Reasons for any sibling separation.
 - Verification of why the placement is in the child's best interests.
 - How the child meets the eligibility requirements.
 - Efforts by the agency to discuss adoption as a more permanent plan for the child.
 - Efforts made to discuss the agreement with the parent/s or reasons why efforts were not made.

Adoptive families

- Increases financial incentives to states to find adoptive families for children in foster care, especially for children with disabilities, special needs, and older teenagers.
- Allows more families to receive federally supported adoption assistance and increases the amount of the assistance.
- Requires agencies to inform prospective adopters about the federal tax credit available for adoptions.

Birth families and other relatives

- Establishes new grants to fund programs for substance abuse treatment and other issues that may allow the children to stay out of foster care or return sooner to their families.
- Requires states to make reasonable efforts to place siblings together after removal. If the siblings are not placed together, the states must make reasonable efforts to provide for frequent visitation or other ongoing interaction, unless this interaction would be harmful to the children. Relative placements that take more than one sibling are assured assistance payments for each sibling placed.

Chapter 39 and sibling placement. The State of Florida also recognizes the importance of this concept in dependency cases. It is the Florida Legislature's intent "(t)o make every possible effort, if two or more children who are in the care or under the supervision of the department are siblings, to place the siblings in the same home; and in the event of permanent placement of the siblings, to place them in the same adoptive home or, if the siblings are separated while under the care of the department or in a permanent placement, to keep them in contact with each other." § 39.001(1)(k). The term relative has also been defined to mean a grandparent, great-grandparent, sibling, first cousin, aunt, uncle, great-aunt, great-uncle, niece, or nephew, whether related by the whole or half blood, by affinity, or by adoption. § 39.01(67). In 2008, the Legislature amended chapter 39 to ensure that even siblings who had been previously adopted did not have to be separated from new siblings who were entering the dependency system. Section 39.401(2)(a)(3) states that when a child is taken into custody, the child can be released to an adoptive parent of the child's sibling. This adoptive parent is even to be given priority consideration over a non-relative placement, such as a foster care placement, when this is in the best interests of the child. §§ 39.401(2)(a)(3), 39.401(3)(b).

Improving outcomes for children and youth in foster care.

- States can receive federal reimbursement for support given to foster children until the child reaches the age of 21. Should Florida pursue this, judges can exercise diligent oversight to ensure that children are meeting eligibility requirements (child must be in school, vocational training, employed, or participating in a program to remove barriers to employment) so that relatives do not find themselves in the position of having their payments suspended. This also aligns with Adoption and Safe Families Act requirements to focus on the health and well-being of children, including educational and vocational success.
- Ninety days before their 18th birthday, children aging out of foster care are required to have a personalized transition plan which reviews housing options, health insurance, education, employment services, and continuing support services. 42 U.S.C.A. § 675(5)(H)(2008).
- States are required to make sure foster children attend school and remain in the same school when appropriate. If remaining in the same school is not in the best interest of the child, the legislation helps provide school-related transportation costs, and the child's case plan must include assurances by the department and the local education agencies

that the child has been provided immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school. 42 U.S.C.A. § 675(1)(G)(ii)(2008).

- The law helps improve health care for foster children by requiring the (Medicaid agency) to better coordinate health services and develop a health plan for each child. Judges can learn about the plan developed by the Department of Children and Families and the Agency for Health Care Administration to understand what provisions are covered.
- The law expands the availability of federal training dollars to reach more direct care staff, including relative guardians, staff of private child welfare agencies, court personnel, attorneys, and guardians ad litem.

Tribal foster care and adoption process.

- Indian tribes now have direct access to the federal foster care and adoption assistance programs through title IV-E funding.
- The Department of Health and Human Services must provide technical assistance and implementation services for Indian children and their families.

Application.

- During hearings and particularly early in the case, judges should actively inquire about the level of due diligence the case worker has performed in efforts to locate relatives.
- Judges can have an impact by supporting applications for grants for Kinship Navigator Programs, intensive family-finding efforts that use technology to find biological family members, family group decision-making meetings, and residential treatment programs that allow parents and children to reside together while receiving intensive services.
- Judges can provide oversight by ensuring that safety of the child is paramount while considering waivers for non-safety related licensing requirements.
- Ninety days before their 18th birthday, children aging out of foster care are required to have a personalized transition plan which reviews housing options, health insurance, education, employment services, and continuing support services. Judges should encourage that the plans be developed earlier when possible, presented to the court for review, and be thorough in nature.
- Judges can actively inquire about educational stability and progress during hearings. (See [*Educational Considerations section*](#))
- Judges can actively inquire about each child's physical, mental, and dental health needs. (See [*Developmental, Physical, Dental Health Considerations section*](#))
- Judges have the opportunity to ensure that the case plan is continually reevaluated to examine the new requirements and rule out options more permanent than guardianship (such as adoption and/or return to parent).

RESOURCE: *Judicial Guide to Implementing the Fostering Connections to Success and Increasing Adoptions Act of 2008*, American Bar Association